

UNITED STATES COURT OF APPEALS

FEB 6 2002

TENTH CIRCUIT

PATRICK FISHER
Clerk

DARRELL BAXTER,

Plaintiff - Appellant,

v.

JOE WILLIAMS, Warden, Lea County Correctional Facility; LAWRENCE TAFOYA, Warden, Southern New Mexico Correctional Facility; AL PARKE, Former Warden, Lea County Correctional Facility; JOHN DOE, also known as Mr. O'Rourke, former Associate Warden, Lea County Correctional Facility; JOHN DOE, also known as Mr. Bravo, Former Associate Warden, Lea County Correctional Facility; WAYNE CALABRESE, President, Wackenhut Corrections Corporation; JOHN DOE, Head of Security, Lea County Correctional Facility, also known as Major Mitton; WACKENHUT CORRECTIONS CORPORATION; LEA COUNTY CORRECTIONAL FACILITY; LEA COUNTY, New Mexico; LEA COUNTY COMMISSIONERS; KEN BATSON, Chairman, Lea County Commissioners; GARY JOHNSON, Governor, State of New Mexico; ROBERT PERRY, Secretary of Corrections; NEW MEXICO CORRECTIONS DEPARTMENT, all in their individual and official capacities,

Defendants - Appellees.

No. 01-2142

(D.C. No. CIV-01-146-BB/DJS)

(D. New Mexico)

ORDER AND JUDGMENT*

Before **SEYMOUR** and **McKAY**, Circuit Judges, and **BRORBY**, Senior Circuit Judge.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Mr. Baxter appeals the District of New Mexico Court's Partial Final Judgment and Order of Dismissal which dismissed the majority of his § 1983 claims. Mr. Baxter claims Defendants violated his constitutional rights in a variety of ways including illegally incarcerating him in a private prison, violating various state laws, and subjecting Mr. Baxter to constitutionally inadequate conditions of confinement such as inadequate access to a legal library.

We could add little to the well-reasoned district court opinion. In dismissing Mr. Baxter's claims, the district correctly cites long-standing

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

precedence which mandates a dismissal of Mr. Baxter's claims. After a thorough review of Mr. Baxter's brief and the record on appeal, we affirm the district court's decision based on the grounds set forth in its opinion.¹ We remind Appellant that he is obligated to continue making partial payments towards the filing fee until the entire fee has been paid.

AFFIRMED.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge

¹Mr. Baxter's motion for issuance of a certificate of appealability is denied as moot as a certificate of appealability is unnecessary in a § 1983 action.